

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

VISTO CORPORATION,

Plaintiff,

vs.

MICROSOFT CORPORATION,

Defendant.

Civil Action No. 2:05-CV-546-DJF

Hon. David J. Folsom

VISTO'S IDENTIFICATION OF PRIOR ART PURSUANT TO 35 U.S.C. § 282

Pursuant to 35 U.S.C. § 282, Plaintiff Visto Corporation hereby submits this identification of prior art to be relied upon for anticipation and/or obviousness of the Microsoft Patents-In-Suit, and/or to show the state of the art. Visto reserves the right to supplement this statement as appropriate. In addition to the prior art listed below, Visto reserves the right to rely on any prior art cited in its Patent Rule 3-3 Invalidity Contentions and the expert report Martin E. Kaliski Ph.D. regarding the invalidity of U.S. Patent Nos. 6,215,369, 6,560,655, and 5,946,691.

U.S. Patent No. 6,125,369

35 U.S.C. §102 et. seq. and/or 35 U.S.C §103 references:

1. “Now Up-To-Date”; *see* Now Up To Date Version 2.0 User’s Guide, 1992; Now Up To Date & Contact version 3.5 User’s Guide, 1995.
2. Microsoft Briefcase; *see* “Mobile Computing in Microsoft Windows 95”; “Mobile Computing Overview What does Windows 95 do for Mobile Computing?” Koszewski, Bill.
3. Microsoft Schedule Plus (S+); *see e.g.*, “The Microsoft Exchange User’s Handbook”, Mosher, Sue, 1997; *see e.g.*, “Mastering Microsoft Exchange Server 5”, Gerber, Barry, 1996; *see e.g.*, “Using Microsoft OLE Automation Servers to Develop Solutions”, Lassen, Ken, 1995; *see e.g.*, “An Extended Introduction to Schedule+ OLE Automation Programming”, Lassen, Ken, 1996; *see e.g.*, “Chapter 5: MS Schedule+ Architecture”, Microsoft Office Resource Kit.
4. Microsoft Windows CE 1.0 product and related documentation.
5. U.S. Patent 6,006,274, Hawkins et al., “Method and apparatus using a pass through personal computer connected to both a local communication link and a computer network for indentifying and synchronizing a preferred computer with a portable computer;” filed: January 30, 1997; issued: December 21, 1999.
6. U.S. Patent No. 5,666,530, Clark et al., “System For Automatic Synchronization Of Common File Between Portable Computer And Host Computer Via Communication Channel Selected From A Plurality of Usable Channels There Between;” filed: December. 2, 1992; issued: September 9, 1997.
7. U.S. Patent No. 5,684,990, Boothby, “Synchronization of Disparate Databases;” filed: January 11, 1995; issued: November 4, 1997.
8. U.S. Patent No. 5,862,325, Reed et al., “Computer-based communication system and method using metadata defining a control structure;” filed: September 27, 1996; issued: January 19, 1999.
9. U.S. Patent No. 6,023,708, Mendez et al., “System and Method For Using A Global Translator To Synchronize Workspace Elements Across A Network;” filed: May 29, 1997; issued: February 8, 2000.
10. U.S. Patent No. 6,085,192, Mendez et al., “System and Method for Securely Synchronizing Multiple Copies Of A Workspace Element;” filed: April 11, 1997; issued: July 4, 2000.
11. Welcome to Developing Palm OS Conduits, 1996.

12. WO 97/04389, Falls et al., "Transaction Synchronization In A Disconnectable Computer And Network;" filed: July 18, 1996; published February 6, 1997; priority date July 20, 1995.
13. WO 97/04390, Falls et al., "Transaction Clash Management In A Disconnectable Computer And Network;" filed: July 18, 1996; published February 6, 1997; priority date July 20, 1995.
14. WO 97/24678, Huang Chu-Yi et. al, "Application Independent E-mail Synchronization;" filed: December 27, 1996; priority date: December 28, 1995; published: July 10, 1997.
15. WO 97/04391, Falls et al, "Transaction Log Management In A Disconnectable Computer And Network;" filed July 18, 1996; published February 6, 1997; priority date July 20, 1995.
16. U.S. Patent 5,727,202, Kucala et al., "Method And Apparatus For Synchronizing Information On Two Different Computer Systems;" filed: October 18, 1995, issued: March 10, 1998.

U.S. Patent No. 5,822,526

35 U.S.C. §102 et. seq. and/or 35 U.S.C §103 references:

1. Sendmail; *see* 1983 Allman, E "SENDMAIL - An Internetwork Mail Router;" 1994 "User Accounts, Printers, and Mail Administration," Sun Microsystems; 1995 Reich, Richard "Sendmail V8: A (Smoother) Engine Powers Network Email;" 1997 Allman, Eric "Sendmail Installation And Operation Guide;" "New Sendmail Configuration Files;" "Sendmail FAQ;" "Contributed Sendmail Configurations;" "Open Computing 'Hands-On' Tutorial: January 1994;" "UnixWorld Online: Tutorial: Article No. 008;" "Sendmail Virtual Domains;" "Sendmail Installation And Operation Guide," Allman, Eric, 1997; and 2002 Sendmail FAQ (and all references cited therein).
2. Prior art X400/500 based email systems, 1992 "Upper Layer Protocols, Architectures and Applications," Neufeld, G., 1992 ("X.400 Deployment Considerations," Lueder, Christopher); "Paradise: the COSINE X.500 Pilot Service," by David Goodman, 1991.
3. Prior art email systems - Post Road Mailer, Eudora, Pine, MH, IMAP, and procmail; *see e.g.*, 1993 Rose, Marshall T., The Rand MH Message Handling System: User's Manual; 1994 "Eudora by Qualcomm Macintosh User Manual"; 1994-95 postings in Usenet.
4. PCT App. No. WO96/09710, Cohn et al. "Network-Based Multimedia Communications And Directory System and Method of Operation;" filed: September 15, 1995; published: March 28, 1996; priority date: September 16, 1994.
5. U.S. Patent No. 5,406,557, Baudoin, "Interenterprise electronic mail hub;" filed: February 1, 1993; issued: April 11, 1995.

6. U.S. Patent No. 5,493,692, Theimer et al., "Selective delivery of electronic messages in a multiple computer system based on context and environment of a user;" filed: December 3, 1993; issued: February 20, 1996.
7. U.S. Patent No. 5,740,231, Cohn et al., "Network-based multimedia communications and directory system and method of operation;" filed: September 16, 1994; issued: April 14, 1998.
8. U.S. Patent No. 5,742,905, Pepe et al., "Personal communications internetworking;" filed: September 19, 1994; issued: April 21, 1998.
9. The admitted prior art in the '526 patent.

U.S. Patent No. 6,560,655

35 U.S.C. §102 et. seq. and/or 35 U.S.C §103 references:

1. Microsoft Briefcase product and related documentation. *See* "Mobile Computing in Microsoft Windows 95," <http://www.microsoft.com/technet/archive/win95/mobile95.msp?pf=true>; "Mobile Computing Overview What does Windows 95 do for Mobile Computing?" Koszewski, Bill; "ADT95: Including Briefcase Replication in a Custom Application," <http://support.microsoft.com/kb/160892>.
2. Microsoft Synchronization Manager product and related documentation. *See* SyncMgr January 21, 1998, Revision 1.05", MS-VISTO 0075107- MS-VISTO 0075139; Microsoft Windows NT 5 (later known as Windows 2000) components including Synchronization Manager (previously known as "One-Stop" or "One-Button" synchronization); see also "Windows NT 5.0 Beta Delivered to Over 200,000 Developers," <http://www.microsoft.com/presspass/press/1997/sept97/winnt5pr.msp?pf=true>; "Windows NT 5.0 Beta 2 Technical Reviewer's Workshop Reviewed", http://www.winsupersite.com/reviews/nt5_workshop.asp; "Speech Transcript - Jim Allchin, NT Reviewer's Workshop", <http://www.microsoft.com/presspass/exec/Jim/8-18nt.msp>.
3. Palm products and documentation. *See* Welcome to Developing Palm OS Conduits, 1996.
4. U.S. Patent No. 5,845,293, Veghte et al., "Method and system of associating, synchronizing and reconciling computer files in an operating system;" filed: March 26, 1997; issued: December 1, 1998.
5. U.S. Patent No. 5,884,323, Hawkins et al., "Extendible method and apparatus for synchronizing files on two different computer systems," filed: 10/13/1995, issued: 3/16/1999.

6. U.S. Patent No. 5,897,640, Veghte et al., “Method and system of associating, synchronizing and reconciling computer files in an operating system;” filed: March 26, 1997; issued: April 27, 1999.
7. Visto Briefcase product and related documentation; *see* Visto Training manual, 10/23/97; Visto Corporation Presentation, 10/97.

U.S. Patent No. 5,946,691

35 U.S.C. §102 et. seq. and/or 35 U.S.C §103 references:

1. Now Software’s Now Up-To-Date (NUD) product and Now Contacts; Now Contact and Now Up-to-Date, Version 3.0 and earlier, as disclosed in review article in MacWorld, dated 4/1/1995; Now-Up-To-Date, V.3.5 User’s Guide (1992-1995);
2. The use of Composite Keys / Compound Keys in databases, such as SQL databases (Microsoft SQL Server) or Microsoft Access. Microsoft Press Computer Dictionary, 3rd Edition, 1997, definition of “composite key;” Wikipedia definition of Composite Key / Compound Key / Concatenated Key, July 27, 2006; Google Groups citations with publication dates: January 13, 1993 – January 30, 1995.
3. “Computer Data-Base Organization, 2nd edition”, Martin, James, 1977.
4. U.S. Patent No. 5,446,882, Capps et al., “Interface for a Computerized Database having Card and List Views;” filed: April 2, 1992; issued: August 29, 1995.
5. VSAM Concepts, Programming, and Design, copyright 1986.

DATED: September 4, 2007

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed via the Court's electronic filing system and has been served on the same date upon all counsel of record via ECF.

/s/ Sam F. Baxter

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